

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ROBERT KANG,
Petitioner,

v.

KAMALA HARRIS,
Respondent.

Case No. [5:12-cv-02776-EJD](#)

**ORDER TO SHOW CAUSE RE:
PETITION FOR WRIT OF HABEAS
CORPUS**

Re: Dkt. No. 1

Petitioner Robert Kang ("Petitioner") pled guilty on May 4, 2010, to one count of unlawful driving or taking of a vehicle without consent of the owner in violation of California Vehicle Code § 10851(a) and one count of felon in possession of a firearm in violation of former California Penal Code § 12021(a)(1), and was sentenced to serve a prison term of 16 months. He became subject to deportation proceedings as a result of this conviction. Petitioner, represented by counsel, thereafter filed in this court a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 challenging his state conviction based primarily on the United States Supreme Court's decision in Padilla v. Kentucky, 559 U.S. 356 (2010).

The court has reviewed the § 2254 Petition and has determined that it warrants a response from Respondent. Accordingly, the court orders Respondent to show cause why the petition should not be granted, as follows:

1. The Clerk shall serve by mail a copy of this Order to Show Cause, the Petition and all attachments (Docket Item No. 1), and the order granting Petitioner's motion to amend (Docket Item No. 6) upon Respondent.

2. Respondent shall file with the court and serve on Petitioner, within sixty (60) days


of the date this order is filed, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted. Respondent shall file with the answer and serve on Petitioner a copy of all portions of the underlying state criminal court records that have been transcribed previously and that are relevant to a determination of the issues presented by the Petition.

3. If Petitioner wishes to respond to the answer, he shall do so by filing a traverse with the court and serving a copy on Respondent within thirty (30) days of his receipt of the answer.

4. Respondent may file a motion to dismiss on procedural grounds in lieu of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the court and serve on Respondent an opposition or statement of non-opposition within thirty (30) days of receipt of the motion. Respondent may file with the court and serve on Petitioner a reply within fifteen (15) days of receipt of any opposition.

IT IS SO ORDERED.

Dated: June 11, 2015


EDWARD J. DAVILA
United States District Judge

United States District Court
Northern District of California